interests prejudiced by the granting of the decree.[14] Obviously it would not result in giving to a foreign law a direct extraterritorial effect on the title to local land.[15] and a merely indirect effect is never considered objectionable.[16] Furthermore, such a decision would be consistent with the predominant force given to the *lex domicilii* in common law countries in determining jurisdiction for divorce and the rights of the parties flowing therefrom, and with the modern tendency, asserted by eminent English authority, to modify the complete control of the *lex sitae* over all matters affecting immovables.[17] The increasing intercourse between nations necessitates an expansion rather than a restriction of the conception of comity,[18] but a denial of the relief here sought would be in effect to refuse, where immovables are concerned, the application of comity in any case whatsoever where a claim is founded on an obligation imposed by the law of a foreign jurisdiction.

INJURIES TO PERSON AND PROPERTY IN A COMMON ACCIDENT AS SEPARATE CAUSES OF ACTION.—It is a familiar rule of obvious wisdom that where a single wrongful act results in the destruction of more than one piece of property, a recovery of part of the damages is conclusive as to the whole,[1] and in like manner in a suit for personal injuries all items of damage must be set forth or the right to compensation for them will be completely barred.[2] This practice is undoubtedly necessary to prevent vexatious litigation and oppression.[3] But the question of its applicability in cases of injury both to person and to property by the same wrongful act, as affecting the plaintiff's right to separate actions, has been a subject of difference among the authorities. This situation arose before the New Jersey Court of Errors and Appeals in the recent case of *Ochs* v. *Public Service Ry.* (N. J. 1911) 81 Atl. 495, and it was held that a former judgment for damages to property was no bar to the plaintiff's present action for personal injuries. Although this decision has the support of high authority both in England and the United States,[4] the majority of American cases have apparently

[14]Where such is not the case, foreign obligations should be enforced. See Hilton *v.* Guyot (1894) 159 U. S. 113, 233.

[15]In the recent case of Matter of Majot (1910) 199 N. Y. 29 there are many expressions which may seem to contravene the views herein advanced. See 10 COLUMBIA LAW REVIEW 147. But considering the present case as an equitable action to enforce a purely personal obligation of a quasi-contractual nature, it is submitted that the Majot case is not controlling.

[16]See Note 9 *supra.*

[17]Dicey, Conflict of Laws, (2nd ed.) 729, 837; and see Polson *v.* Stewart (1897) 167 Mass. 211.

[18]See 12 COLUMBIA LAW REVIEW 60.

[1]Knowlton *v.* New York etc. R. R. Co. (1888) 147 Mass. 606.

[2]Fetter *v.* Beale (1703) 1 Salk. 11.

[3]O'Neal *v.* Brown (1852) 21 Ala. 482; see Farrington *v.* Payne (N. Y. 1818) 15 Johns. 432.

[4]Brunsden *v.* Humphrey (1884) L. R. 14 Q. B. D. 141; Watson *v.* Texas & Pacific Ry. Co. (1894) 8 Tex. Civ. App. 144; Reilly *v.* Sicilian Asphalt Co. (1902) 170 N. Y. 40; Powers *v.* Sherin (N. Y. 1903) 89 App. Div. 37.

reached the opposite result,[5] upon the theory that the gravamen of the action is the defendant's wrongful act, of which the divers injuries sustained by the plaintiff are merely the consequences, and that therefore the cause of action remains inseverable.[6] It has also been said that any other practice would involve endless multiplicity of suits.[7]

The fallacy of this argument lies in its failure to grasp the fundamental principle that there can be no civil liability, no matter what the defendant's conduct may have been, without the violation of a legal right belonging to the plaintiff.[8] The existence of a cause of action, then, must depend on two factors, the act, and the invasion of a right,[9] and clearly the divisibility of the issue in turn must depend upon whether one or more of such rights has been infringed, irrespective of the singleness of the act producing the injury.[10] It is elementary that a trespass to person and property, though committed by one act, violates two absolute and distinct rights, that of security of the person and that of free use and enjoyment of property, rights which have been recognized as independent of each other since time immemorial,[11] and which, in early times, were remedied when infringed by different writs,[12] and nowadays are in many cases subject to very different rules of law. That the two rights are different, not merely in degree, but in kind and in substance, is emphasized by the well-established rule that a cause of action for injuries to property is itself property which may be seized by creditors,[13] and passes to an assignee in bankruptcy, while a mere right to recompense for personal injuries does not possess any of these characteristics.[14]

But the distinction does not rest on history or technical theory alone. There exist the strongest practical reasons for allowing two separate actions under these circumstances. The Statute of Limitations applied to actions for personal injuries is usually different from that covering injuries to property;[15] so also a tort to the person is discharged by the death of either party affected by it, while a similar wrong to property will usually survive;[16] and again it may happen that a tortfeasor was under different duties towards the person and the property of the plaintiff, both of which he has injured. It follows, therefore, that a compulsory joinder of such causes of action will often produce a situation of great inconvenience. In the frequent cases where a pas-

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[5]Doran *v.* Cohen (1888) 147 Mass. 342; King *v.* Chicago etc. Ry. Co. (1900) 80 Minn. 83; Baltimore & Ohio R. R. *v.* Ritchie (1869) 31 Md. 191; Seger *v.* Barkhamsted (1853) 22 Conn. 290; Lamb *v.* St. Louis etc. Ry. (1889) 33 Mo. App. 489; see Coles *v.* Illinois Central Ry. (1905) 120 Ky. 686.

[6]King *v.* Chicago etc. Ry. *supra.*

[7]Seger *v.* Barkhamsted *supra.*

[8]Brunsden *v.* Humphrey *supra.*

[9]Pomeroy, Code Remedies, (4th ed.) § 347.

[10]Pomeroy, Code Remedies, (4th ed.) §§ 350, 351; see Threatt *v.* Mining Co. (1896) 49 S. C. 95.

[11]See 1 Bl. Com. (Lewis' ed.) 129, 138.

[12]Martin, Civil Procedure, §§ 76, 77.

[13]Hudson *v.* Plets (N. Y. 1844) 11 Paige 180.

[14]Burdick, Torts, 236.

[15]See Pollock, Torts, (8th ed.) 210.

[16]Burdick, Torts, 228, 229.

senger and his goods in the care of a common carrier are damaged in the same accident, it would not be easy to determine whether the carrier's liability should be measured by its duty toward the person, or toward the property of the plaintiff.[17] It is obvious that the only solution of these difficulties lies in the recognition of the fact that two independent rights have been infringed and that a corresponding number of rights of action have arisen as a result. It should be noted, however, that such a doctrine is no objection to a joinder or consolidation under proper circumstances as a check upon useless litigation.[18] Thus, it seems that injuries to the person are so essentially different from those to property, not only in theory, but in their legal consequences, that it would be "impracticable, or, at least, very inconvenient in the administration of justice, to blend the two,"[19] and the doctrine of the principal case, it is submitted, approaches more nearly than that of the contrary decisions to technical and historical accuracy as well as to practical justice and common sense.

EXTRA-DOMICILIARY RECOGNITION OF THE CORPORATE ENTITY.—Though under the doctrine of comity a part or even the whole of a corporation's business may be carried on in a State other than that of its creation, it is elementary that the corporate personality in a certain sense cannot pass beyond the borders of the sovereignty by virtue of whose recognition it enjoys the privileges constituting its corporate existence.[1] The fiction of a corporate entity, then, is properly employed to describe and embody in objective form the sum of its rights and attributes; but the fact that this conception is in truth only a fiction is made clear by the familiar rule that a corporation, though a citizen within the protection of the constitutional guaranty of "due process of law," is not so considered under the "privileges and immunities" clause.[2] The conception of a personality, by its very simplicity and attractiveness, has led in some cases to unfortunate even if logical results.

Of course when the corporation does business in a foreign State, it must submit, no less than a natural person, to the restrictions of the local law; but a difficult problem is met when the validity of a corporate act, prohibited in the foreign domicil but permissible under the laws of the forum, is brought into question. Admittedly the corporation must "bring its charter with it," and cannot exceed the powers conferred by that instrument; but the courts are in conflict as to the extra-domiciliary effect of a restrictive provision of the general law of the domicil. It has been strongly urged that the corporation away

[17]Watson *v.* Texas & Pacific Ry. Co. *supra,* where it was held that two distinct causes of action arose in this situation.

[18]Chicago etc. Ry. *v.* Ingraham (1890) 131 Ill. 659; McInerney *v.* Main (N. Y. 1903) 82 App. Div. 543.

[19]Cullen, J., in Reilly *v.* Sicilian Asphalt Co. *supra.*

[1]Bank of Augusta *v.* Earle (1839) 38 U. S. 519. Thus, for example, if created by a foreign State, it is always considered to be out of the jurisdiction within the meaning of Statutes of Limitations. Larson *v.* A. & T. Co. (1893) 86 Wis. 281; Thacher, Corporations at Home and Abroad, 2 COLUMBIA LAW REVIEW 351.

[2]Paul *v.* Virginia (1868) 75 U. S. 168; see Horn Silver Mining Co. *v.* New York (1891) 143 U. S. 305, 314.